

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

UNITED STATES OF AMERICA

v.

DANIEL MARC LOFARO

Defendant.

Case No. 1:23-CR-156-RDA

UNITED STATES' MOTION FOR REVOCATION OF RELEASE ORDER

The United States of America, by and through undersigned counsel, respectfully moves the Court under 18 U.S.C. § 3145(a)(1) to revoke the October 11, 2023 order releasing the defendant on conditions of pretrial release. The defendant has an extensive pattern of trafficking child pornography, has expressed his desire to sexually abuse a child, and has engaged online with at least one purported minor, asking her to send him a photograph of her genitals. Thus, the defendant cannot overcome the presumption that no conditions of release can ensure the safety of the community.

BACKGROUND

A. The initial FBI investigation

During its investigation of a separate individual, the FBI in Ohio became aware that a Kik user, later identified as the defendant, had been exchanging child sexual abuse material (CSAM) files with their target. When the FBI searched the separate individual's cell phone in November 2021, they found Kik messages between him and a user with display name C. Gull Dukat and username TheSeaGullHasLanded (later identified as the defendant).

On October 20, 2021, the defendant engaged in the following Kik chat with the individual in Ohio (“User-1”):

C. GULL DUKAT: Love what you just posted. You have any a bit more ...
revealing?

User-1: I might

User-1: [.jpg depicting topless female minor wearing only underwear]

User-1: [.jpg depicting two female minors standing together nude]

C. GULL DUKAT: Ooooooooooooo very nice

C. GULL DUKAT: [.jpg depicting female minor wearing only shoes and
underwear]

C. GULL DUKAT: [.jpg depicting female minor sitting cross-legged wearing only
underwear]

C. GULL DUKAT: Any penetration?

User-1: [.jpg depicting anus and buttocks of minor female]

User-1: [video depicting two minor females kissing while an adult penis
ejaculates on their faces]

B. The search of the defendant’s residence and electronic devices

On May 18, 2022, FBI and NCIS agents executed a federal search warrant at the defendant’s residence in Fairfax County, Virginia. Law enforcement seized hundreds of electronic devices, including an iPhone 12 mini cell phone (the “iPhone”) from the defendant’s person. Forensic examination of the defendant’s iPhone uncovered numerous Kik chats where the defendant distributed CSAM, received CSAM, discussed his interest in watching minors engage in sexual activity, and his desire to sexually abuse a child.

For example, in a Kik chat on August 13, 2021, the defendant engaged in the following private chat with a user (“User-2”) from the Kik group “#incestwetrust”:

C. GULL DUKAT: S2r¹

C. GULL DUKAT: Incest and family btw

User-2: Ive got very young incest

C. GULL DUKAT: I like that. I have some of that nature

On June 26, 2021, the defendant engaged in a chat with a user (“User-3”) where they discussed how User-3 saw his 14-year-old daughter having sex. The defendant wrote, “That is kind of hot[.] Did you watch for a bit?” Later during the chat, the defendant contributed the following story about a time when he “hypothetically” saw a friend’s minor daughter in the pool with a boy.

| | |
|---------------|---|
| User-3 | U ever seen a 12 yearold fuck? |
| C. Gull Dukat | It is possible |
| User-3 | Tell me a about it |
| C. Gull Dukat | Hypothetically |
| C. Gull Dukat | One of my friends has a daughter that gets together with me and another family that we are friends with from time to time |
| C. Gull Dukat | One time my one friends son and my other friends daughter hit it off and were playing with each other in the pool |
| User-3 | Oh fuck got any pics of the girl |
| C. Gull Dukat | She was a could years younger than 12 and he was a couple older. |
| C. Gull Dukat | Hypothetically |
| C. Gull Dukat | What about you |
| C. Gull Dukat | You have pics of your daughter? |
| C. Gull Dukat | They did not do too much in the pool but we could tell they were doing someone |

¹ This is commonly understood to mean “send to receive.”

| | |
|---------------|---|
| C. Gull Dukat | It was amusing |
| User-3 | Yes & id like to trade |
| C. Gull Dukat | Not here |
| User-3 | Where then |
| C. Gull Dukat | Give me a sec |
| User-3 | After that night they fucked i found nudes of her being sent. I immediately saved them  |
| C. Gull Dukat | Good man |
| C. Gull Dukat | We were kind of hoping that the would start something in front of us but no gots |
| C. Gull Dukat | It would have been fun to see |
| User-3 | Where u wanna trade |
| C. Gull Dukat | Yes. Give me a sec. |
| User-3 | Dont got all day to trade these |
| C. Gull Dukat | Turing on another device |
| C. Gull Dukat | I don't trade in this account |
| User-3 | I see |
| C. Gull Dukat | Just needs to get enough charge to turn on |
| C. Gull Dukat | Not going through? |

On December 27, 2021, the defendant chatted with another Kik user (“User-4”) about User-4’s experience sexually abusing a 6- or 7-year-old child in Thailand.

| | |
|---------------|--|
| User-4 | You added H from a group you are in together '#lol.icon' |
| C. Gull Dukat | Hey |
| User-4 | Hey |
| C. Gull Dukat | You like lol? |
| User-4 | Yeah y |
| User-4 | U |
| C. Gull Dukat | Love the little Asian girls |

| | |
|------------------|--|
| C. Gull Dukat | You live in Japan? |
| User-4 | Me too |
| User-4 | Yeah I do |
| C. Gull Dukat | Good place for that |
| C. Gull Dukat | You ever get to see them in real life? |
| User-4 | Yeah especially if you like lil Japanese girls |
| C. Gull Dukat | I do like lil Japanese girls |
| C. Gull Dukat | |
| User-4 | Me too |
| C. Gull Dukat | Are their places to see them in Japan? |
| User-4 | Yeah I work in a elementary school so I'm around them every day |
| User-4 | Lol |
| C. Gull Dukat | Oh you are a lucky man |
| User-4 | Lol yeah 6-12 year olds |
| C. Gull Dukat | You ever fantasize about playing? |
| User-4 | Yeah always |
| C. Gull Dukat | Did you ever get a chance? |
| User-4 | You can hug them a lot and pick them up and carry them |
| User-4 | Peak up their short on the bars |
| User-4 | In the play ground |
| C. Gull Dukat | Well that is something |
| C. Gull Dukat | I heard that in Thailand there are places where you can play with a mom and their little one |
| C. Gull Dukat | You ever been to anything like that? |
| User-4 | Lol you can sneak in touches because they are innocent they don't know |
| User-4 | I felt butts and chest a lot |
| C. Gull Dukat | Oh that is very nice |
| C. Gull Dukat | Lucky |
| User-4 | Feels good |
| C. Gull Dukat | You ever take pics? |
| User-4 | Can't get caught |

| | |
|---------------|---|
| C. Gull Dukat | Makes sense |
| C. Gull Dukat | Have you ever played with their pussy? |
| C. Gull Dukat | |
| User-4 | The 6 and 7 year olds you can put your hand between their legs they don't know what you doing but you can feel their Pusey lips through their panties |
| C. Gull Dukat | Very fun |
| C. Gull Dukat | You are a lucky man |
| User-4 | Feels good |
| C. Gull Dukat | Now I want to go to Thailand 🇹🇭 |

In a Kik chat on February 5, 2022, the defendant told “User-5” that he would “love to try one day” when User-5 explained how he digitally penetrated his 12-year-old niece while she slept.

| | |
|---------------|---|
| User-5 | Hey brother |
| C. Gull Dukat | Hey |
| C. Gull Dukat | Can you tell me about your touchy time? |
| User-5 | Yeah between pics if you have any |
| C. Gull Dukat | I only have nn right now |
| C. Gull Dukat | Did a purge |
| C. Gull Dukat | Sorry |
| User-5 | That's perfect |
| C. Gull Dukat | |
| User-5 | Making me get horny again |
| C. Gull Dukat | |
| C. Gull Dukat | Good |
| User-5 | |
| C. Gull Dukat | That is hot |
| C. Gull Dukat | So how did you get to touch? |

| | |
|------------------|--|
| User-5 | |
| User-5 | Reminds me of my niece |
| C. Gull Dukat | She is cute |
| C. Gull Dukat | You were touching your niece? |
| C. Gull Dukat | How old was she? |
| User-5 | Yeah while she sleeps |
| User-5 | 12 |
| C. Gull Dukat | Good age |
| C. Gull Dukat | And she did not wake up? |
| User-5 | She just pretend to stay asleep lol |
| C. Gull Dukat | Oh maybe she was horny |
| C. Gull Dukat | What did you do to her? |
| User-5 | Here little cunny hole was soaked when I fingered her clit |
| C. Gull Dukat | |
| User-5 | Mmm fucking love little holes |
| C. Gull Dukat | Good that she let you finger get |
| C. Gull Dukat | Right. I would love to try one day |
| User-5 | |
| C. Gull Dukat | Cute. |
| C. Gull Dukat | I love mommy son. You like that? |
| User-5 | Not really |
| C. Gull Dukat | Just daddy daughter |
| User-5 | Pretty much |
| C. Gull Dukat | |
| C. Gull Dukat | |
| C. Gull Dukat | You ever get your niece to touch your cock? |
| User-5 | |
| User-5 | A couple times in our hot tub |
| C. Gull Dukat | That is hot. |

| | |
|------------------|---|
| C. Gull Dukat | What did she do to you when in the hot tub? |
| C. Gull Dukat | |
| C. Gull Dukat | |
| C. Gull Dukat | https://mega.nz/folder/lwoxGK7b#y0bwucmbDTZYdpNHXHKqkg |
| User-5 | First I put her feet on my hard cock. Her eyes got big then she slid over and placed her hand on my wiener |
| C. Gull Dukat | Good girl |
| User-5 | |
| C. Gull Dukat | Do you wish she would have sucked it? |
| User-5 | Very good little girl |
| C. Gull Dukat | Or Sat on it |
| User-5 | OMG yeah |
| C. Gull Dukat | Does she ever play with any of your friends? |
| User-5 | I want to hot dog her plump butt cheeks |
| C. Gull Dukat | What about putting it right in her small kitty? |
| User-5 | Mmm her butthole is so pretty |
| C. Gull Dukat | Oh you have played with that too? |
| User-5 | Pulled her PJs down and admired her ass |
| C. Gull Dukat | Still pretending to be asleep? |
| User-5 | I think she was really asleep this time |
| User-5 | That mega link isn't working |
| C. Gull Dukat | Damn. Sorry |
| C. Gull Dukat | Was this morning |
| C. Gull Dukat | Must have been taken down |
| User-5 | |
| C. Gull Dukat | Nice. Did you want to see mine? |
| User-5 | Sure |
| C. Gull Dukat | |
| User-5 | Nice cock brother |

| | |
|------------------|--|
| C. Gull Dukat | Your niece with you now? |
| C. Gull Dukat | Thanks sir |
| User-5 | I fucking wish |
| User-5 | |
| C. Gull Dukat | |
| C. Gull Dukat | You have any more videos? |
| User-5 | I'm trying to get material |
| C. Gull Dukat | I am looking for someone who has a daughter that they are willing to share |
| C. Gull Dukat | Me too |
| C. Gull Dukat | Trying to trade up after my purge |
| User-5 | Same here |
| C. Gull Dukat | I met someone once that seemed to be willing but they fizzled out |
| C. Gull Dukat | Not in person |
| C. Gull Dukat | So they might have been BSing |
| C. Gull Dukat | Got some vids if you have some to trade |
| User-5 | Never know. I wouldn't share my niece |
| User-5 | Unless you paid me like a grand |
| C. Gull Dukat | Ha ha ha |
| C. Gull Dukat | Well that is a shame |
| C. Gull Dukat | Maybe if she would take my cock in her pussy |
| C. Gull Dukat | Or maybe we can find someone else |
| User-5 | She is a virgin. Only butt hole |
| C. Gull Dukat | Ouch. |
| User-5 | I know she would cry |
| C. Gull Dukat | Yah. I wouldn't do that to her |
| User-5 | Aw such a gentleman |
| User-5 | |
| C. Gull Dukat | Ha ha ha. Yes a touchy gentleman |

| | |
|---------------|------------------------------|
| C. Gull Dukat | |
| User-5 | Any more nn |
| C. Gull Dukat | |
| User-5 | |
| User-5 | Fuck yeah so good |
| C. Gull Dukat | She is cute |
| User-5 | Heavy chested little cutie 😊 |
| C. Gull Dukat | Yah. Beautiful chest |
| C. Gull Dukat | At such a young age |

The evidence shows that the defendant made efforts to avoid detection by deleting his CSAM collection, a practice he referred to as “purging” in discussions with other Kik users. For example, on August 18, 2021, the defendant engaged in the following chat with “User-6”:

| | |
|---------------|--|
| User-6 | I'm mainly in anything go groups young or incest |
| C. Gull Dukat | Ah ok |
| C. Gull Dukat | I removed all of those the other day 😊 |
| C. Gull Dukat | Glad you connected |
| User-6 | Aha I try to be |
| C. Gull Dukat | I don't have anything to trade due to my recent purge sir. Sorry |
| C. Gull Dukat | Unless you wanted to just chat |
| User-6 | Ah damm |
| C. Gull Dukat | Yah should have caught me a few days ago |

The defendant also attempted to conceal his CSAM collection on his MacBook Air laptop. There, forensic examiners uncovered a password-protected encrypted archive file which was found to contain over 400 CSAM files, including a nearly 2-minute video depicting the anal penetration of an infant/toddler by an adult penis.

C. Investigation of defendant's production of CSAM

Forensic examination of the defendant's iPhone revealed multiple videos that appeared to have been captured from the social media application Snapchat. At least one Snapchat video on the defendant's iPhone depicts a minor engaged in sexually explicit conduct. When law enforcement executed a search warrant on the defendant's Snapchat account, they found evidence that in November 2021, the defendant engaged in a sexual discussion with another user ("Minor 1") who said she was 15. During this chat, the defendant described to Minor 1 how he would engage in sex with her, telling her "[i]f not I keep pushing until I cum inside of you[.] I pull out and you are dripping with my cum[.]" Then, he asked her, "[c]an you send a pic of your pussy? I want to see what I just came in[.]" In reply, Minor 1 sent the defendant a close-up image of a vagina.

Law enforcement is investigating the age and true identity of Minor 1, who is believed to reside in another country.

PROCEDURAL HISTORY

On October 5, 2023, a federal grand jury in the Eastern District of Virginia returned a three-count Indictment charging the defendant with distribution and receipt of child pornography, in violation of 18 U.S.C. §§ 2252(a)(2) and (b)(1), and possession of child pornography, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and (b)(2). *See* Docket Entry ("DE") 1. On October 6, 2023, the defendant was arrested when he surrendered himself to the U.S. Marshals. He made his initial appearance before the Honorable William E. Fitzpatrick, DE 6, and was released temporarily subject to certain conditions, DE 10, so he could attend his father's funeral the following day. The defendant was ordered to appear at his detention hearing on October 11, 2023.

On October 11, 2023, the Honorable Lindsey R. Vaala ordered the defendant's release subject to certain conditions over the government's objection. *See* DE 14. The government notified the court of its intent to seek district court review.²

ARGUMENT

A. The Court has authority to revoke the Order of Release, and a rebuttable presumption of detention exists in this matter.

The government may seek de novo review by a district court of a magistrate judge's order releasing a defendant. 18 U.S.C. § 3145(a). The district court may review the evidence before the magistrate judge or conduct its own evidentiary hearing. *United States v. Koenig*, 912 F.2d 1190, 1193 (9th Cir. 1990). If the court finds by clear and convincing evidence that no "condition or combination of conditions will reasonably assure . . . the safety of any other person and the community," the Court "shall order the detention of the person before trial." 18 U.S.C. § 3142(e).

In this case, there is a rebuttable presumption that no condition or combination of conditions will suffice because there is probable cause to believe that the defendant committed an offense involving a minor victim. *See* 18 U.S.C. § 3142(e)(3)(E).

B. The egregious nature of the offense, the ample evidence in this case, the defendant's lengthy pattern of engaging in this conduct, and the danger he poses to the community weigh strongly in favor of detention.

Nature and circumstances of the offense. The evidence shows that the defendant repeatedly distributed and received CSAM, over many months, with multiple different Kik users. Furthermore, the defendant engaged in lengthy chats about sexually abusing children and how he would like to find a child to sexually abuse. Indeed, it appears from the Snapchat records that the

² The government also requested that the court stay the release order pending district court review, however, because the defendant had already been temporarily released by Judge Fitzpatrick, it was the court's position that staying the release order would mean the defendant would be at liberty, without any pretrial conditions, until the district court review. Thus, the court declined the government's request.

defendant engaged in a sexual chat with Minor 1 and asked her to send him a picture of her genitals. The defendant attempted to conceal his conduct by purging his collection and by hiding it in an encrypted file in his computer. In his chat with User-3, the defendant also alluded to trading CSAM in a different device—“Turning on another device[.] I don’t trade in this account[.]”

Nature and seriousness of danger to the public. It is well-established that victims of the exploitation that occurs during the production and trafficking of CSAM often bear profound burdens encompassing the original trauma and beyond—and that the suffering caused by this sexual abuse often continues for the rest of their lives. “Every instance of viewing images of child pornography represents a renewed violation of the privacy of the victims and a repetition of their abuse.” Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, § 501(2)(D), 120 Stat. 587, 624 (2006) (codified at 18 U.S.C. § 2251 note). Of course, the defendant did not just view—he distributed. As courts have regularly recognized, “[s]uch images are a permanent record of the children’s participation and the harm to the child is exacerbated by their circulation” *United States v. Burgess*, 684 F.3d 445, 459 (4th Cir. 2012) (internal quotation marks omitted). These children, “who must live with the knowledge that adults like [the defendant] can pull out a picture or watch a video that has recorded the abuse of [them] at any time,” “suffer a direct and primary emotional harm when another person possesses, receives or distributes the material.” *United States v. Sherman*, 268 F.3d 539, 547-48 (7th Cir. 2001). In some cases, victims of CSAM trafficking are hounded by strangers even as adults; there is little prospect of an end to the torment. Here, the defendant not only distributed CSAM, he distributed images and videos in conjunction with lewd conversations detailing abuse of children. The revictimization of the children in these materials fortified fantasies about abusing accessible children.

Weight of the evidence. The weight of the evidence is overwhelming. The Kik chats and the CSAM media files that were exchanged were found on the defendant's iPhone which was taken by law enforcement from his person. The Snapchat account used to communicate with Minor 1 was linked to the defendant's email account and account information was stored in his iPhone. Two MacBooks laptops were taken from the defendant's home office and were also found to contain CSAM.

History and characteristics. The defendant is a sophisticated user of technology. He stated to pretrial services that he is "essentially the IT person for his employer," DE 11, where he works as a software developer. At the time of the search warrant, the defendant had hundreds of electronic devices at his residence. Even with strict conditions related to his use of any internet-capable device, the government is concerned that given the defendant's computer background, and his history of concealing his illegal conduct, the defendant poses a risk to the community. Indeed, the defendant was married and living with his wife—and current third-party custodian—when he committed the instant offenses. He has proven capable of living a multi-faceted life, keeping the illegal conduct separate and hidden from the rest.

C. The defendant cannot rebut the presumption that no conditions can assure the safety of the community.

Because the defendant's crimes have been committed online, the primary condition to police his behavior will be electronic monitoring. However, electronic monitoring has significant limitations. As an initial matter, it only works on devices known to pretrial services. Obtaining additional phones is cheap and easy, and nearly impossible for a third-party custodian to prevent or monitor. Moreover, electronic monitoring *detects* misbehavior, but does not *prevent* it before it happens. Once electronic monitoring identifies a problem—which necessarily occurs after the fact—the harm to the community, and to those minors, has already occurred.

The defendant's illegal conduct is pervasive and long-standing. Accordingly, the government respectfully requests that the Court revoke the order of release and detain the defendant pending trial.

Respectfully submitted,

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By: _____/s/

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